C.P. 100/ SINGLE BENCH (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4710 OF 2005

PETITIONER:

Jalim Singh, S/o-Purshottam Lal
Aged about 30 years, R/o Village
Gram Panchayat Odkakan, Block
Bilaigarh, Distt- Raipur (C.G.)

4785/05
P.R. No.
Presented by Shri Vinay Pandey
dated 15/9/05

VERSUS

RESPONDENT (S):

1. State of Chhattisgarh
Through it's Secretary
Department of Panchayat
D.K.S. Bhawan Raipur (C.G.)

2. Chief Executive Officer
Janpad Panchayat Bilaigarh,
Distt. Raipur (C.G)

3. Sub Divisional Officer (Revenue)
(Prescribed Authority) Block-
Bilaigarh, Distt- Raipur (C.G.)

4. Sarpanch,
Gram Panchayat Odkakan, Block
Bilaigarh, Distt- Raipur (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS / CERTIORARI ETC. OR DIRECTION / ORDER IN THE LIKE NATURE.

(61)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

W. P. No. 4710 of 2005

Petitioner : Jalim Singh

Versus

Respondent : State of Chhattisgarh & others

Shri Vinay Pandey, counsel for the petitioner.

Shri V.V.S. Moorthy, Dy. Advocate General with Shri Satish Gupta, Dy. Govt. Advocate for the respondents No. 1, 3 and 4/State.

Shri Sandeep Dubey, counsel for the respondent No. 2.

None appears for the respondent No. 4.

ORDER

(Passed on 7th September, 2006)

1. The petitioner was appointed as Panchayat Karmi/Secretary by order dated 9.11.1995 (Annexure P/1) of the Gram Panchayat, Odakakan, District Raipur.

2. Service of the petitioner was terminated from the post of Panchayat Karmi/Secretary by order dated 19.4.2005 (Annexure P/4) passed by the respondent No. 4 on the basis of resolution passed in the meeting of the Gram Sabha.

3. Being aggrieved, the petitioner made a representation before the competent authority, but same was not considered.

4. The petitioner filed an appeal before the Sub Divisional Officer, Bilaigarh. The Sub Divisional Officer, by order dated 16.5.2005 (Annexure P/1), stayed the operation of the impugned order dated 19.4.2005 (Annexure P/4) passed by the respondent No. 4. The Sub Divisional Officer/respondent No. 3 ultimately dismissed the appeal filed by the petitioner on 30.8.2005 (Annexure P/8).

5. The petitioner has filed this petition impugning the order dated 19.4.2005 (Annexure P/4) passed by the Gram Sabha and order dated 30.8.2005 (Annexure P/8) passed by the respondent No. 3 dismissing the appeal of the petitioner against the order of removal passed by the Gram Panchayat approved by the Gram Sabha.

6. The petitioner has filed this petition challenging the impugned orders on the ground that the petitioner was not afforded an opportunity of hearing and no enquiry was held as envisaged in Rule 7 of the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short 'The Rules, 1999'). It is further submitted that before imposing major penalties as specified in clause (iv) to (via) of rule 5, the procedure in Rule 7 of the Rules, 1999, has not been followed. Hence, the removal order is bad as major penalty in terms of Rule 5 (b) (vi) of the Rules, cannot be imposed

without conducting a regular departmental enquiry as prescribed under Rule 7 of the Rules, 1999.

7. Accordingly, the order dated 19.4.2005 (Annexure P/4) passed by the Gram Panchayat, Odkakan and order dated 30.8.2005 (Annexure P/8) passed by the Sub Divisional Officer, Bilaigarh are quashed and the petitioner is entitled to all the benefits, pecuniary and otherwise. It is made clear that this order will not come in the way of the Respondent/Gram Panchayat or any other respondent, as the case may be, from initiating the disciplinary action against the petitioner for the alleged misconduct committed by him, if so advised, in accordance with law and in terms of the procedure prescribed in Rule 7 of the Rules, 1999.

Sd/-
Satish K. Agnihotri
Judge

Bablu